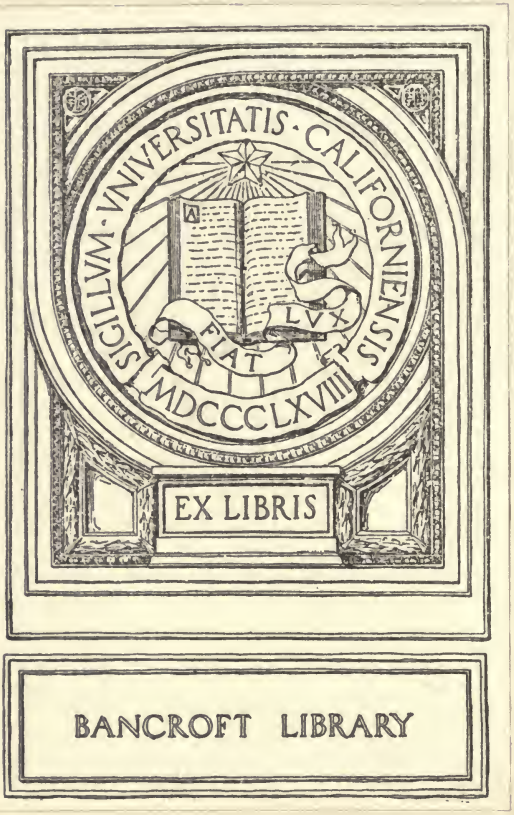

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VIII.—MUNICIPAL PROBLEMS IN MEDIÆVAL SWITZERLAND.

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By the end of the Middle Ages many European cities had become almost sovereign states, consequently their functions of administration were more extensive than in cities of the present. This was not the original condition of these municipalities, but was a state which had been reached through a long history. At the beginning cities were in feudal subserviency, but in the course of time many won for themselves independence and self-government. Each town had its particular history and reached its goal by its own route, but this early development is beyond the task of this paper to describe. The results only at a given moment will be briefly summarized.

Looking at some of the larger cities of Switzerland and South Germany, one finds in the late mediæval period that their governments are concerned in the highest forms of state activity, and at the same time in the most minute, if we may not call them the most trivial, details of community life. A study of the period, therefore, demands that we remove from our minds our modern standards and limitations of city government and examine this earlier municipal life and activity in the light of its own day, and in the perspective of its own landscape.

In their capacity as states the Swiss cities under consideration were members of a political confederation. This was a feeble union, but called for a certain amount of common action. This was at first chiefly defensive, but eventually became aggressive. The surrounding nations became involved and the political horizon of the Swiss was progressively enlarged, while they gradually became the balancing military power in Europe. These city governments, both as members of the confederation and for themselves individually, entered

into treaties, military capitulations, and other agreements with the great states of Europe. They were accustomed to look beyond the narrow limits of their own territory and to take part in the larger affairs of the world.

These sovereign rights had also their sovereign perils, for if, in the pursuit of the larger political life, war should ensue, every state must in the last resort depend on its own defenses. In fact, the first requisite of existence was defense against the enemy. Now the nature of that defense is a most important factor in mediæval municipal life. As everybody knows, the warfare of that day called for city walls. Where natural cliffs were lacking, masonry was called in to provide barriers against hostile men and hostile cannon. Heavy stone walls were formed around all of the important Swiss cities, as in other countries.

These defenses, in the first place, called for an original outlay of a serious character, whatever the size of the town might be. In a small place the burden would fall on fewer, and in large towns the circumference of the fence would be greater. Later on there would have to be continual outlay for maintenance, for preservation of the moats, and the prevention of decay. Walls, therefore, became one of the fixed charges of a city. The organization of the citizens for watch and guard duty might have taken place without walls, and we need not say that one is the cause of the other. Guard duty was a problem and a burden growing out of the manners of the times. The walls, however, determined numerous important matters within their precincts. For long periods they set limits to the size of the city. Mediæval walls were not, like those of Babylon were said to have been, agricultural boundaries as well as municipal defenses. Comparatively little vacant space was left inside, and for considerable periods the whole problem of expansion found its limit at the city wall. Within this lay the problem of sanitation, to which the moat on the outside added a hygienic puzzle of its own, in solution, as it were.

Undoubtedly the width of streets and alleys as they still remain in many old places was largely determined originally by the limits of the city circumference. The situation and the form of houses were also in a measure affected by the

artificial boundaries of defense. If one follows out the many ramifications of this question, it becomes more and more evident that the whole civic activity takes on a character due to the city walls. This factor has not been emphasized sufficiently in the histories of city government, and deserves greater consideration when trying to explain why authorities did some things and failed to do others.

As to forms of government the Swiss cities may be divided into two general classes. In one the trade guilds had an active part in the administration; in the other they had not. In the latter case the aristocracy took the affairs of the State wholly into their own hands. The two prominent examples of the respective classes are Zurich and Bern. In Zurich a revolution took place in 1336 under the leadership of Rudolf Brun. This was a demand for more popular representation, and the result was the admission of the masters of the guilds to the city council.

Under the new constitution the citizens were practically divided into two classes—the citizens of wealth and the citizens of toil. The first class consisted of the aristocratic families, the larger merchants, and those who were financially at ease. All of these qualifications were much less extensive than at present. Since this part of the population was, as usual, the smaller, it was gathered into one guild, called the Constafel. This term was derived from *constabularius*, but indicated no longer the special duties of that feudal office, and was simply used as a title of distinction for a superior class.

The working classes were grouped into thirteen trade guilds, whose organization differs in no essential from the forms found in other countries at this period. In the administration of the city government aristocracy and labor were about equally represented. It would be inexact to say "capital and labor" in this description, for every master of a trade was a capitalist and employer in a small way. Not yet was there a wage-earning class here entirely dependent on the capitalists for the opportunity to labor. The distinction was made partly in obedience to the natural reverence for well-born families, for capacity for leadership, as well as for wealth itself, and its stake in the commonwealth.

In outline the city government consisted of a smaller and a

larger council, with a burgomaster as executive head. The Kleiner Rath, or smaller council, consisted of 26 members, 13 from the one guild of the constafel, and the 13 masters of the trade guilds. This council met every week or oftener, and was the real executive council of the city.

The great council, known as the Grosser Rath, was composed as follows:

Members of the smaller council	26
Members of the outgoing smaller council	26
From the trade guilds, 6 from each	78
From the constafel	78
Appointed at large by the burgomaster	3
The burgomaster himself, as presiding officer	1
Total membership	212

After 1370 this larger body was commonly spoken of as the council of the 200, or, for short, "Die zweihundert." Its meetings occurred at irregular intervals for the more fundamental business of the city state.

Elections to the councils took place every six months, at Christmas and midsummer. The burgomaster also was chosen every half year, but it came to be the practice to consider the outgoing mayor as part of the government, and thus two chairmen were constantly available. At the dates mentioned the guilds of Zurich met in their respective assemblies and chose their masters and their representatives for the two councils. These newly elected bodies thereupon met together and chose a burgomaster.

The same general form of government was found also in Basel and Schaffhausen. The number of members in the councils was larger in Basel and smaller in Schaffhausen than in Zurich, but the principle was the same. The reform of 1336 in Zurich was clearly patterned after a similar movement in Strassburg which occurred shortly before. In Basel the representation of the guilds was introduced about 1350.

In these constitutions there was a problem of representation which presents an interesting subject for study. The recognition of the guilds has a political as well as an economic significance. The act testifies to the activity and progress of industry in those particular localities. Analysis of their membership, in Zurich for example, shows that about every man

not in wardship or dependent service was a member of a guild. In Basel, and perhaps in other places, even the widows of deceased members could carry on the business as members. The connection of the citizen with politics began with the election of guild delegates to the great council. The master of his guild was also an elective officer, and was at the same time an ex officio member of the government. The common man, therefore, made himself felt through his business organization rather than through a ward or precinct of the city. The constafel were more influential on account of their wealth and condition, and were provided with double the number of representatives. In this case also they were represented by delegates of their own choice.

Closer study permits one to make a fair estimate of the extent of democracy present in the government. The population of Zurich in the fourteenth and fifteenth centuries has been estimated to have been between 7,000 and 10,000. According to the usual proportions the adult men would make about one-fifth of such a community, or anywhere from 1,200 to 2,000. Taking the highest figure, a legislature of 200 members would give 1 delegate to every 10 voters, or 1 to 50 inhabitants. Even if the estimate of male inhabitants should be made twice as large as modern figures warrant, we should have a ratio of 1 delegate to 20 voters, a representation which comes very near to pure democracy.

Practically everybody who was a working force in the city had a voice, although not an equal voice, in the public business. The superior representation of wealth marks the boundaries of the contest of social forces for the time being. The jealousy of the two elements was by no means quieted by the admission of the trades to the government in 1336. The problem of the conservative party was to prevent the intrusion of democracy. The trades were continually endeavoring to obtain more influence and actual power.

Aristocratic government in Swiss cities was represented in the constitutions of Bern, Luzern, Freiburg, and Solothurn. Taking Bern as the largest and most influential, we find at the outset that one of the cardinal principles of that city was that guilds were not permitted to have any voice whatever in the government. What is more curious is the fact that the

rulers took measures even to the extent of forming military alliances to prevent the guilds from ever getting any hold upon administration. Most curious of all is the agreement which Zurich was willing to enter into, for that republican town promised to lend armed assistance to the government of Bern if any one should attempt to overthrow the existing constitution and introduce the régime of guilds. In return for this the Bernese were to come to the help of Zurich if the political power of the guilds was threatened. In Bern these organizations were confined to their industrial functions.

In the aristocratic cities above mentioned there were in the fourteenth century two councils, as in Zurich, but the difference lay in the method of appointment. Bern had a small council of 26 and a great council of 200. Luzern had a small council of 36 and a great council of 100, while in Freiburg the proportion was 24 to 200. Formerly there had been only a single small council of an aristocratic character with a Schultheiss at the head. The constitution of Bern now under consideration was itself a concession to a brief labor movement which began about 1295 and got no further. To appease the demands of the guilds a new board was created, called the sixteen, or the secret council, and consisting of four men from each quarter of the city. This board, with the assistance of four of the chief officers of the government, selected a council of two hundred, to which all classes were eligible. If the members were properly chosen this council could be a fairly popular body, but it is easy to see how in the course of time the great council became simply an instrument for confirming aristocratic power. With lawmakers of its own appointing, the upper classes made the right of citizenship more and more difficult to obtain, so that in the sixteenth and seventeenth centuries the government of Bern was almost a family affair.

The limits of this paper do not permit a detailed examination of all the problems which might and did arise under these two forms of municipal government. In both cases there were common attributes of sovereignty to be put into practice. Each city state was the final source of law, both public and private, civil and criminal. Law, to be sure, was a product of custom and history, but the councils of Zurich, for

example, determined what law should prevail in their limits. No outside power determined that question. The ordinances contain such serious matters as the law of inheritance, stipulated in all its details. In criminal law there were traces of feudal administration, but the customary law was now written and punishments were enactments of city councils. The council was, in fact, a court of appeal, and the distinctions between legislature and judiciary were not clearly marked. Add to this the police laws necessary in a compact community, and the scope of legislation goes far beyond our modern conceptions of the municipality.

Each city regulated for itself and its dependent territory all matters concerning weights, measures, and coinage. A supervisor of weights and a master of the mint were necessary municipal officials. There were attempts to establish common standards among the towns, but the coinage of the time is the distraction of the modern collector and could hardly have been less to a contemporary.

Religion also was under the supervision of city councils. Not until the Reformation do we meet with serious trouble about doctrine, but the administration of church property had been closely watched for a long time before. When the authorities were convinced that monastic estates were not properly managed they appointed bailiffs to supervise and report to the State. Zurich maintained an oversight of the clergy, and as the territorial possessions of the city increased more and more pastors depended on the secular authorities for appointment. Consequently it was only natural that the public debate on Zwingli's theses should take place before the great council, and that the celebrated decree which ordered the clergy to confine their preaching strictly to the Scriptures, was the act of that modern impossibility, a board of aldermen!

The government of the city was in one sense confined to the circuit of its walls, and in another extended over the neighboring country. The lands of Zurich, for example, spread about over the space now occupied by Zurich Canton, but this was not a part of the State as we should now understand it; it was subject territory. The Canton was made up of districts, properties, and other feudal rights which had from time to time been purchased, forfeited, or conquered

from their former owners. The various parts were administered by governors appointed by the city council. The inhabitants of the country were not citizens, but subjects of the city. Certain outside residents were admitted as citizens, but only by special act. The city stood simply in the place of the former owners or overlords of the soil.

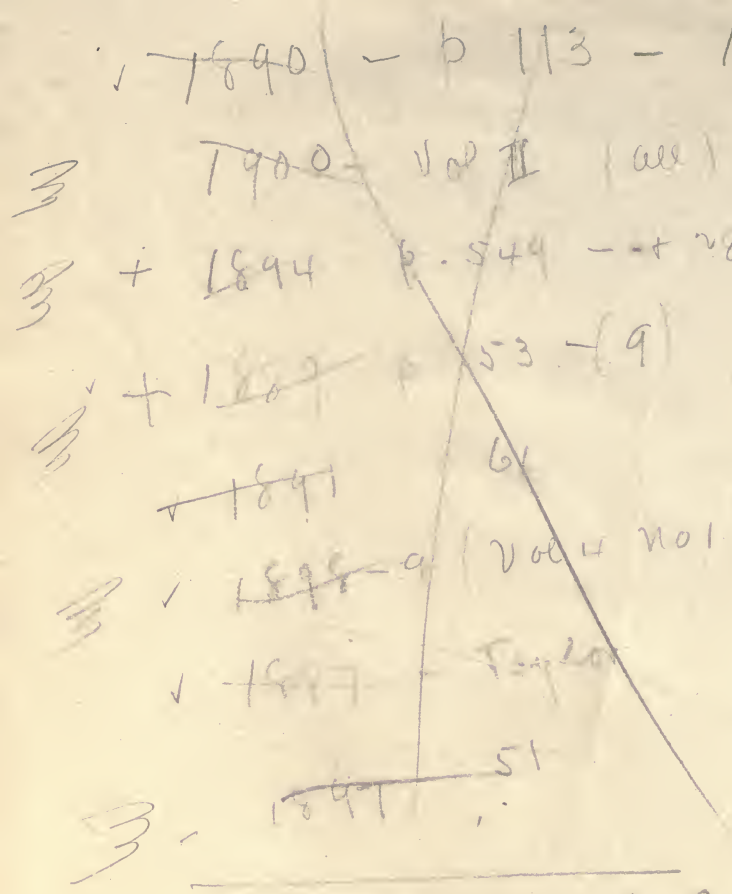
The evils of this were very great, for the country was unfairly treated in the regulation of trade. The city desired no competition on the part of country artisans. Country-made goods were forbidden the city, or so burdened that they were unlikely to enter. The trade guilds were afraid of their own subjects and got behind the protection of their own walls. Inside the municipal boundaries the regulation of trade, apprenticeship, quality of goods, and such matters was largely in the hands of the unions, but the city frequently enacted general ordinances and regulated prices.

The police ordinances show a wide range of activity. There is abundant record of the methods used to suppress crimes and misdemeanors. Citizens must not carry swords on stated occasions, particularly when crowds might be expected to assemble. Betting above a certain small limit was forbidden. In general, the power of government to regulate individual conduct was much more extensive than we now conceive it to be. What were later called "blue laws" were numerous and far-reaching. The city fathers felt it to be their duty to prevent extravagance by statute. Clothing must be modest in form and remain within a stated limit of expense, for various classes. At one time coats must reach to the knee, and shoes must extend no more than a finger length beyond the toe. Wedding feasts must not have more than a certain number of guests. Profanity was unlawful, and a select list of prohibited oaths was published, so that one should not with impunity swear by "God's wounds," or by "the mother of God," and various other expressions which apparently came lightly over the tongue in those days. In fact, the records are a curious mixture of things both grave and gay.

Some things we miss. There is little or nothing said about pavements, for the very good reason that they had little or nothing of the kind. Zurich's first-known paving ordinance appeared late in the fifteenth century. Street lights find no

mention, for the city doubtless felt no call to undertake a business which from its very nature ought to be left to the free competition of the sun and moon. The nearest approach to a public franchise was the right to place mills on the river, which in Zurich flowed through the center of the town. The regulation of this was intended more than anything else to prevent undue competition of millers and to make the number of mills correspond to the demand for flour.

This picture is incomplete but sufficient has been said to indicate the wide variety of civic problems and the spirit in which the solutions were approached.



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